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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,079	10/25/2001	Jay S. Dweck	G08.008	3920

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BUCKLEY, MASCHOFF, TALWALKAR LLC  
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EXAMINER


RHODE JR, ROBERT E

ART UNIT PAPER NUMBER

3625

DATE MAILED: 09/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/036,079	<b>Applicant(s)</b> DWECK, JAY S. 	
	<b>Examiner</b> Rob Rhode	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Amendment*

Applicant amendment of 7-1-04 amended claims 1, 4, 5, 12, 18 and 15 and canceled claims 6 – 7 and 16 as well as traversed rejections of Claims 1 - 19.

Currently, claims 1- 19 are pending.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1 - 19 are rejected under 35 U.S.C. 102(e) as being unpatentable over Tanner (US 2002/0180786 A1).**

Regarding claim 1 and related claims 12, 18 and 19 (Currently amended), Tanner teaches a method, device and system for adjusting network preference information, comprising:  
detecting network activity (see at least Abstract); measuring a characteristic of said network activity (see at least Abstract and Para 0004); and adjusting network

preference information based at least in part on said characteristic, wherein said network preference information at least includes information identifying one of a plurality of network sites, and wherein said detecting, measuring and reconfiguring are performed at said user device (See at least Para's 0005, 0021 and Figure 2A).

Regarding claim 2 (Original) and related claim 15, Tanner teaches a method, wherein said characteristic is at least one of: (i) a time spent at a network site; (ii) a frequency of visits at a network site (see at least Figure 2A); (iii) a number of downloads from a network site; (iv) a window size while viewing a network site; and (v) a number of keystrokes entered into a client device while visiting a network site.

Regarding claim 3 (Previously presented), Tanner teaches a method, further comprising repeating said detecting, measuring, and adjusting for a plurality of network sites visited by a client device (Para 0012).

Regarding claim 4 (Currently amended), Tanner teaches a method, wherein said information identifying one of a plurality network sites includes information identifying at least one of: (i) a network site with the greatest frequency of visits by a client device (Figure 2A); (ii) a network site having the greatest time spent by a client device; (iii) a network site having the greatest number of downloads by a client device; (iv) a network site for which a client device selected the largest window size; and (v) a network site having the greatest number of keystroke interaction by a client device.

Regarding claim 5 (Currently amended), Tanner teaches a method, wherein said detecting, measuring and adjusting are performed by a user device that includes a computer operating browser software and wherein said network site is a server accessible via the Internet.

Regarding claim 8 (Original), Tanner teaches a method, further comprising: presenting, based at least in part on said network preference information, information identifying at least a first alternative network site (Figure 2B).

Regarding claim 9 (Original), Tanner teaches a method, further comprising: identifying said characteristic to measure (Abstract) and (claim 10 original) wherein said identifying includes: presenting a listing of available characteristics to measure (Para's 0017 and 0018); and receiving data selecting said characteristic from said listing of available characteristics (Para 0018).

Regarding claim 11, Tanner teaches a method, further comprising: configuring at least one software application on a plurality of client devices based on said network preference information (Abstract).

Regarding claim 13 (Currently amended), Tanner teaches a device, wherein said storage device further stores a characteristic database storing characteristic information from said plurality of said network sites (Para 0021 and Figures 4a and b).

Regarding claim 14 (Original), the recitation that "wherein said storage device further stores a preference database storing said preference information," such recitation is given little patentable weight because it imparts no structural or functional specificity which serves to patentably distinguish the instant invention from the other "stores" already disclosed by Tanner.

Regarding claim 17, Tanner teaches a device, further comprising instructions adapted to be executed by said processor to identify a characteristic to measure (Abstract).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 - 19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **(703) 305-8230**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeff Smith** can be reached on **(703) 308-3588**.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **(703) 308-1113**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

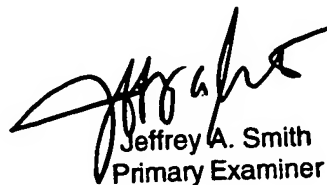
or faxed to:

**(703) 872-9306** [Official communications; including  
After Final communications labeled  
"Box AF"]

**(703) 746-7418** [Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7<sup>th</sup> floor receptionist.

RER

  
Jeffrey A. Smith  
Primary Examiner